NO. 73-1462

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

MARK WHITE, ET AL, Appellants

VS.

DIANA REGESTER, ET AL, Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS

APPELLEES REJOINDER TO APPELLANTS REPLY TO APPELLEES, REGESTER, BERNAL, AND ESCALANTE MOTION TO DISMISS AND IN OPPOSITION TO APPELLANTS MOTION TO DISPENSE WITH PRINTING

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April 27, 1974

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

MARK WHITE, ET AL, Appellants

VS.

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COURT FOR THE WESTERN DISTRICT OF TEXAS

APPELLEES REJOINDER TO APPELLANTS REPLY TO APPELLEES, REGESTER, BERNAL, AND ESCALANTE MOTION TO DISMISS AND IN OPPOSITION TO APPELLANTS MOTION TO DISPENSE WITH PRINTING

TO THE HONORABLE SUPREME COURT OF THE UNITED STATES:

Appellants have now admitted that their Motion to Dispense With Printing was in fact a motion for extension of time to file their Jurisdictional Statement, which motion was filed two days after the final deadline of April 1, 1974. (Page 5, Appellants

Reply)* No application for extension of time to file appellants Jurisdictional Statement was presented to a Justice of this Court within the time for docketing the appeal as required by Rules 13 (1) and 34 (2) of the Rules of this Court. As admitted by appellants in their Appellants Reply, the only permission sought for an extension was from the clerk of this Court by telephone. (Pages 9-12, Appellants Reply) The clerk of this Court is not authorized to grant such an extension. Interestingly even the telephonic motion of the appellants to the clerk of this Court was made on March 26, 1974, within the ten day period during which motions for extension of time "will not be granted except in the most extraordinary circumstances". Rule 34 (2), Supreme Court Rules.

Appellants have yet to furnish this court any justification whatsoever, sworn or unsworn, for a motion for extension of time, or any excusable neglect in failing to timely file a Jurisdictional Statement printed in conformity with Rule 39 of this Court. If there be such justification, why have the appellants not brought the matter to the attention of this Court?

CONCLUSION

WHEREFORE, appellees respectfully pray that the appeal of this cause be dismissed for failure to timely docket the appeal.

RESPECTFULLY SUBMITTED,

George Korbel
George Korbel

Marvin Collins
Marvin Collins

*Appellants Reply to Appellees, Regester, Bernal, and Escalante Motion to Dismiss and in Opposition to Appellants Motion to Dispense With Printing will be referred to as Appellants Reply.